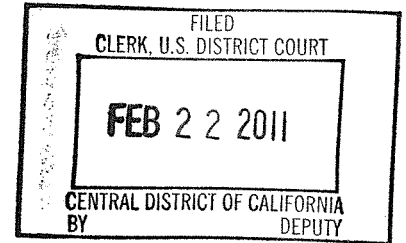


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6 Attorneys for Plaintiff,
7 TACORI ENTERPRISES

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 TACORI ENTERPRISES,
11
12 Plaintiff,
13 vs.
14 SCOTT KAY, INC.,
15 Defendant.

Case No. **CV11 01565CAS** (AGRx)
**COMPLAINT FOR COPYRIGHT
INFRINGEMENT, TRADEMARK
INFRINGEMENT, TRADE
DRESS INFRINGEMENT, AND
UNFAIR COMPETITION;
DEMAND FOR TRIAL BY JURY**

16
17 Plaintiff, Tacori Enterprises ("Tacori"), by and through its attorneys,
18 Christie, Parker & Hale, LLP, files its complaint against Scott Kay, Inc.
19 ("Defendant") for injunctive relief and damages as follows:

20 **Subject Matter Jurisdiction and Venue**

21 1. This case is a civil action arising under the Trademark and Copyright
22 Laws of the United States, 15 U.S.C. §§ 1051, *et seq.*, and 17 U.S.C. §§ 101, *et*
23 *seq.*, respectively. This Court has subject matter jurisdiction over the claims in
24 this Complaint which relate to copyright infringement and trade dress
25 infringement pursuant to 15 U.S.C. § 1121, 17 U.S.C. § 501 and 28 U.S.C. §§
26 1331 and 1338(a).

27 2. This Court has supplemental jurisdiction over the claims in this
28 Complaint that arise under state statutory and common law of the State of

1 California pursuant to 28 U.S.C. § 1367(a), because the state law claims are so
2 related to the federal claims that they form part of the same case or controversy
3 and derive from a common nucleus of operative facts.

4 3. Venue is proper in this court pursuant to 28 U.S.C. §§ 1391(b) and
5 1400(a). The infringing products which are the subject of this litigation are and
6 have been distributed and offered for distribution in the Central District of
7 California; the claims alleged in this action arose in the Central District of
8 California; and, the Defendant transacts business in the Central District of
9 California.

10 **Parties and Personal Jurisdiction**

11 4. Plaintiff Tacori Enterprises is a California corporation with its
12 principal place of business at 1736 Gardena Avenue, Glendale, California.

13 5. Defendant Scott Kay Inc., upon information and belief, has its
14 principal place of business at 780 Palisade Ave., Teaneck, New Jersey 07666.
15 This Court has personal jurisdiction over Defendant because Defendant transacts
16 business and has other related activities within the Central District of California.
17 Defendant regularly does and solicits business and derives substantial revenue
18 from doing business in this Judicial District. This Court also has personal
19 jurisdiction over Defendant because Defendant operates its Internet website,
20 available at <http://www.scottkay.com> or <http://scottkay.com>, which is directed to
21 and accessible by consumers within this Judicial District and which lists
22 Defendant's authorized jewelers within this Judicial District. Further, this Court
23 has personal jurisdiction over Defendant because Defendant has threatened and is
24 causing actual harm to Plaintiff, Defendant's actions are aimed at Plaintiff, and
25 the brunt of the harm Defendant knew would be suffered by Plaintiff within this
26 Judicial District

The Business of Plaintiff Tacori Enterprises

6. For over 35 years, Tacori has been an innovator in the design, creation, and marketing of fine jewelry. Tacori designs its own jewelry and has created exclusive collections from only top quality platinum and 18 or 22 karat gold.

7. Among Tacori's original jewelry designs are pieces of jewelry which contain crescents (collectively the "Tacori Crescent Jewelry"). Photographs of the Tacori Crescent Jewelry are attached to this Complaint as Exhibit A. Each piece of the Tacori Crescent Jewelry is an original design comprising copyrightable subject matter under the laws of the United States.

8. At all relevant times, Tacori complied in all respects with the Copyright Act, 17 U.S.C. § 101, *et seq.*, and secured the exclusive rights and privileges in and to the copyright in the Tacori Crescent Jewelry. Each piece of the Tacori Crescent Jewelry is an original work copyrightable under the Copyright Act, and has been copyrighted in full compliance with the Copyright Act.

9. Tacori has received Certificates of Registration and Supplemental Registrations from the Register of Copyrights for the Tacori Crescent Jewelry. A list of the Copyright Registrations for the Tacori Crescent Jewelry is attached to this Complaint as Exhibit B.

10. Since its creation, the Tacori Crescent Jewelry has been manufactured by Tacori, or under its authority.

11. Since the creation of the Tacori Crescent Jewelry, Tacori has been and still is the sole proprietor of all rights, title and interest in and to the copyrights in the Tacori Crescent Jewelry and the Certificates of Registration corresponding therewith.

12. Tacori introduced the first of its distinctive and unique Tacori Crescent Jewelry in 1999.

1 13. Since the introduction of its first distinctive Tacori Crescent Jewelry,
2 Tacori has introduced additional rings and other types of jewelry, all of which
3 incorporate the same distinctive design elements, referred to herein as the “Tacori
4 Crescent Trade Dress.” The Tacori Crescent Trade Dress, as it applies to rings
5 and some pieces of jewelry, is defined as “. . . the appearance of portions of two
6 essentially concentric rings, with one of the rings having a larger diameter than
7 the other. Embedded between the rings are repeating semi-circles or arcs which
8 appear contiguous to each other. A space is created between the contiguous semi-
9 circles or arcs.” Tacori owns a United States trademark registration for the Tacori
10 Crescent Trade Dress, Registration No. 3,728,425. A copy of the Registration
11 Certificate for this registration is attached to this Complaint as Exhibit C.

12 14. Tacori has introduced other rings and other types of jewelry, all of
13 which incorporate the same distinctive design elements, referred to herein as the
14 “Tacori Reverse Crescent Trade Dress.” The Tacori Reverse Crescent Trade
15 Dress, as it applies to rings and some pieces of jewelry, consists of the appearance
16 of two generally concentric ring portions, with one ring portion having a larger
17 diameter than the other ring portion. Located between the two generally
18 concentric ring portions are at least two semicircular, arched, or crescent-shaped
19 openings that appear to be adjacent to each other and are oriented with their
20 apexes closer to the larger diameter ring portion. Located between each
21 semicircular, arched, or crescent-shaped opening is a stone. Examples of jewelry
22 containing the Tacori Reverse Crescent Trade Dress is attached to this Complaint
23 as Exhibit D.

24 15. Tacori has made and continues to make a substantial investment of
25 time, effort, and expense in the design, manufacturing, and marketing of its
26 jewelry featuring the Tacori Crescent Trade Dress and the Tacori Reverse
27 Crescent Trade Dress. For example, Tacori’s custom designed platinum and
28 diamond wedding bands with the Tacori Crescent Trade Dress were featured on

1 the Today Show and received the popular vote from over 59,000 viewers
2 choosing the wedding bands for a winning couple. Tacori's custom designs have
3 also been featured on Extra, and various seasons of The Bachelorette and the The
4 Bachelor.

5 16. Tacori advertises its Tacori Crescent Trade Dress and Tacori
6 Reverse Crescent Trade Dress jewelry designs in national publications, such as
7 Cosmopolitan, Elegant Bride, Elle, InStyle, InStyle-Wedding, Marie Claire,
8 Martha Stewart Wedding, Modern Bride, Robb Report, Town & Country, Vogue,
9 and W. Furthermore, Tacori advertises its products, particularly those with the
10 Tacori Crescent Trade Dress and the Tacori Reverse Crescent Trade Dress in
11 trade publications and over the World Wide Web through its website
12 www.tacori.com.

13 17. The Tacori Crescent Jewelry bearing the Tacori Crescent Trade
14 Dress and the Tacori Reverse Crescent Trade Dress has been sold to retail stores
15 throughout the United States. These retail stores display and offer for sale the
16 Tacori Crescent Jewelry with the Tacori Crescent Trade Dress and the Tacori
17 Reverse Crescent Trade Dress to the general public.

18 18. The Tacori Crescent Jewelry featuring the Tacori Crescent Trade
19 Dress and the Tacori Reverse Crescent Trade Dress has had outstanding
20 commercial success. As a result, jewelers and the public recognize the Tacori
21 Crescent Trade Dress and the Tacori Reverse Crescent Trade Dress as designating
22 an exclusive source, thereby creating a goodwill which inures to Tacori's benefit.

23 **The Business of Defendant Scott Kay Inc.**

24 19. Tacori is informed and believes, and on that basis alleges, that
25 Defendant is a wholesale designer, manufacturer and/or distributor of jewelry to
26 the jewelry industry and is in the business of designing, manufacturing, marketing
27 and selling fine jewelry.
28

1 20. Defendant sells or has sold jewelry under the trade name Scott Kay
2 Inc.

3 21. Plaintiff is informed and believes, and on that basis alleges, that
4 Defendant operates its jewelry business in direct competition with Plaintiff's
5 jewelry business.

6 22. Plaintiff is informed and believes, and on that basis alleges, that
7 Defendant sells its jewelry to, and actively solicits and seeks as customers, the
8 same jewelers and retailers as Plaintiff.

9 23. Plaintiff is informed and believes, and on that basis alleges, that
10 Defendant sells its jewelry to, and actively solicits and seeks as customers, the
11 same consumers as Plaintiff.

12 24. Plaintiff is informed and believes, and on that basis alleges, that
13 Defendant sells its jewelry to jewelers, retailers, and consumers within this
14 Judicial District, and specifically markets its jewelry within this Judicial District.

15 25. Defendant has been aware of Tacori and its jewelry since at least
16 2005. In 2005, Tacori filed a complaint against Defendant in the United States
17 District Court for the Central District of California for cybersquatting, trademark
18 infringement and unfair competition because Defendant improperly and
19 unlawfully registered the domain name tacoriplatinum.com. *Tacori Enterprises*
20 *v. Scott Kay, Inc., et al.*, Case No. CV05-1388 RSWL (Mcx). Visitors to the
21 tacoriplatinum.com domain name were redirected to Defendant's website at
22 scottkay.com. The parties entered into a confidential settlement agreement to
23 resolve this lawsuit and Tacori now owns the tacoriplatinum.com domain name.

24 26. Tacori has not authorized Defendant to copy, reproduce,
25 manufacture, duplicate, disseminate, or distribute the Tacori Crescent Jewelry or
26 jewelry with a design that is substantially similar to the Tacori Crescent Jewelry.

27 27. Tacori has not authorized Defendant to copy, reproduce,
28 manufacture, duplicate, disseminate, or distribute jewelry with a design that is

1 confusingly similar to the Tacori Crescent Trade Dress or the Tacori Reverse
2 Crescent Trade Dress.

3 28. Tacori is informed and believes, and on that basis alleges, that
4 Defendant has engaged in the advertisement, manufacture, distribution,
5 duplication and/or sale of infringing copies of the Tacori Crescent Jewelry.

6 29. Tacori is informed and believes, and on that basis alleges, that
7 Defendant has engaged in the advertisement, manufacture, distribution,
8 duplication and/or sale of jewelry with designs that are confusingly similar to the
9 Tacori Crescent Trade Dress or the Tacori Reverse Crescent Trade Dress.

10 30. Tacori is informed and believes, and on that basis alleges, that
11 Defendant has sold or offered to sell unauthorized and infringing copies of the
12 Tacori Crescent Jewelry, which bear designs that are confusingly similar to the
13 Tacori Crescent Trade Dress or the Tacori Reverse Crescent Trade Dress,
14 wholesale and through retailers.

15 31. Currently, Defendant is manufacturing, advertising and selling rings
16 that are substantially similar to the Tacori Crescent Jewelry and confusingly
17 similar to the Tacori Reverse Crescent Trade Dress. For example, Defendant is
18 advertising and selling several rings in its new bridal line, the Heaven's Gate
19 collection. Pictures of these unauthorized and infringing copies of the Tacori
20 Crescent Jewelry and the Tacori Reverse Crescent Trade Dress are attached to
21 this Complaint as Exhibit E.

22 **First Cause of Action**

23 (Copyright Infringement)

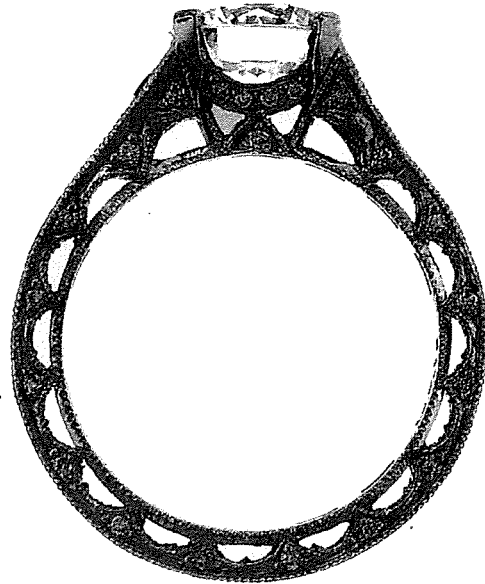
24 32. Tacori realleges and incorporates by reference each of the allegations
25 contained in Paragraphs 1 through 31 of this Complaint as though fully set forth.

26 33. Defendant's acts constitute infringement of Tacori's copyrights in
27 the Tacori Crescent Jewelry in violation of the Copyright Act, 17 U.S.C. § 101, *et*
28 *seq.*

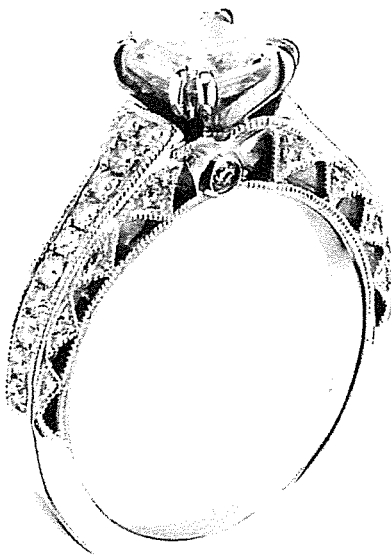
34. For example, Defendant's engagement rings, Ring Style Nos. M1820R510* and M1821R510*, from Defendant's Heaven's Gate collection are substantially similar to Tacori's copyrighted ring design HT 2510 (Copyright Registration No. VA-1-649-453).



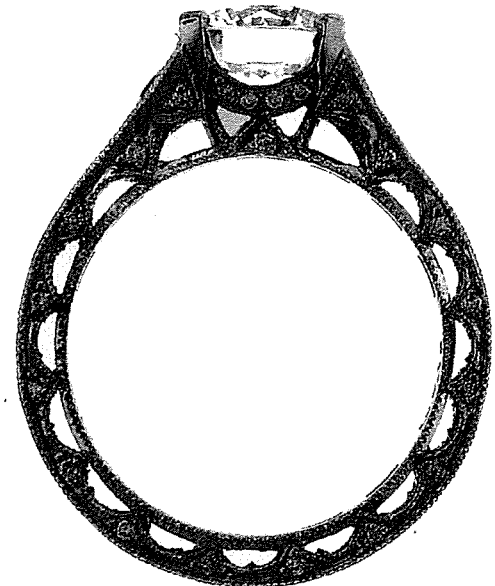
M1820R510*



HT 2510

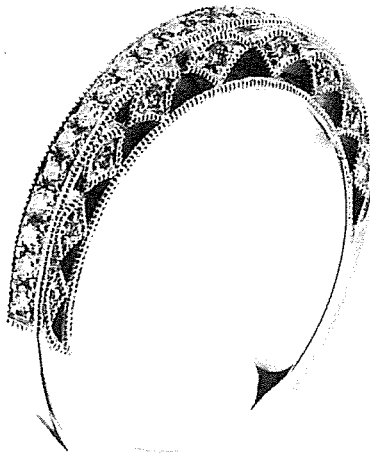


M1821R510*

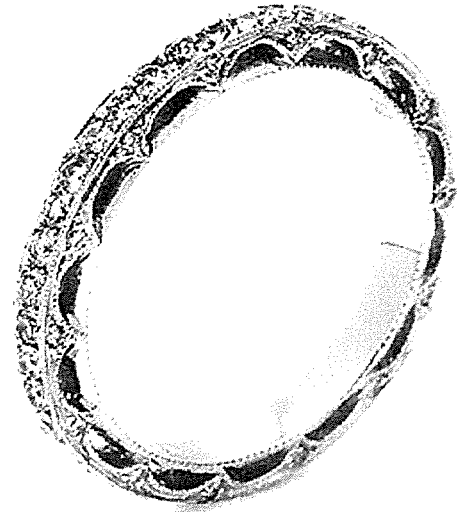


HT 2510

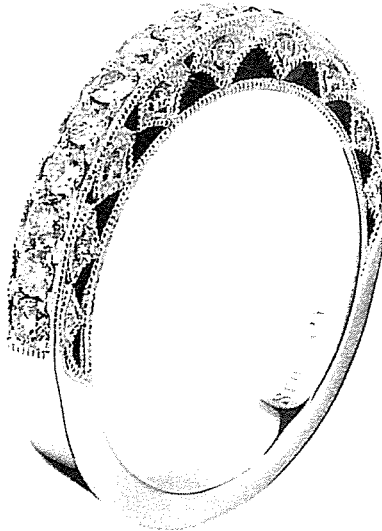
1 35. For further example, Defendant's wedding bands, Ring Style Nos.
2 B1820R510* and B1820R710*, from Defendant's Heaven's Gate collection are
3 substantially similar to Tacori's copyrighted ring design HT 2511 (Copyright
4 Registration No. VA-1-301-902).



13
14 **B1820R510***



15 **HT 2511**

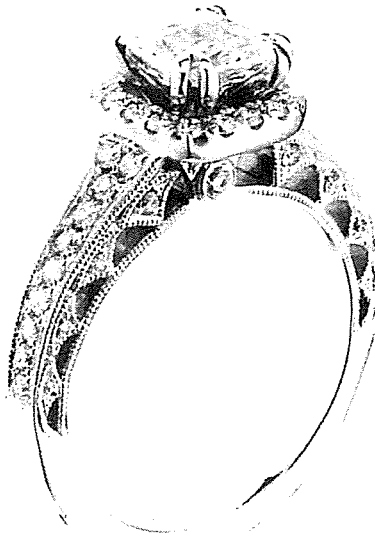


23
24 **B1820R710***



25 **HT 2511**

36. In addition, Defendant's engagement ring, Ring Style No. M1823R510*, from Defendant's Heaven's Gate collection is substantially similar to Tacori's copyrighted ring design HT 2515 RD 8 1/2 X (Copyright Registration No. VA-1-749-235).



M1823R510*



HT 2515 RD 8 1/2 X

37. Tacori is informed and believes that Defendant's manufacture, distribution, duplication and/or sale of infringing copies of the Tacori Crescent Jewelry was deliberate, willful, malicious, oppressive, and without regard to Tacori's proprietary rights.

38. Defendant's copyright infringement has caused, and will continue to cause Tacori to suffer substantial injuries, loss, and damage to its proprietary and exclusive rights to the copyrights in the Tacori Crescent Jewelry and further, has damaged Tacori's business reputation and goodwill, diverted its trade, and caused loss of profits, all in an amount not yet determined. In addition, Tacori is entitled to receive the profits made by Defendant from its wrongful acts pursuant to 17 U.S.C. § 504. Alternatively, Tacori is entitled to recover statutory damages, on

1 election by Tacori, in an amount of up to \$150,000 for each copyrighted work
2 sold, offered for sale or distributed.

3 39. Defendant's copyright infringement, and the threat of continuing
4 infringement has caused, and will continue to cause Tacori repeated and
5 irreparable injury. It would be difficult to ascertain the amount of money
6 damages that would afford Tacori adequate relief at law for Defendant's acts and
7 continuing acts. Tacori's remedy at law is not adequate to compensate it for the
8 injuries already inflicted and further threatened by Defendant. Therefore, Tacori
9 is entitled to temporary, preliminary and permanent injunctive relief pursuant to
10 17 U.S.C. § 502, and to an order under 17 U.S.C. § 503 and 28 U.S.C. § 1651(a)
11 that the infringing copies of the Tacori Crescent Jewelry, and all molds by which
12 such infringing copies were produced, be seized, impounded and destroyed.

13 40. Tacori is also entitled to recover its attorneys' fees and cost of suit
14 pursuant to 17 U.S.C. § 505.

15 **Second Cause of Action**

16 (Trademark Infringement Under 15 U.S.C. § 1114(1))

17 41. Tacori realleges and incorporates by reference each of the allegations
18 contained in Paragraphs 1 through 40 of this Complaint as though fully set forth
19 here.

20 42. Defendant's use in commerce of Tacori's federally registered
21 trademark in the Tacori Crescent Trade Dress is likely to cause confusion,
22 mistake, or to deceive.

23 43. The above-described acts of Defendant constitute trademark
24 infringement in violation of 15 U.S.C. § 1114(1), entitling Tacori to relief.

25 44. Defendant has unfairly profited from the trademark infringement
26 alleged.

27 45. By reason of Defendant's acts of trademark infringement, Tacori has
28 suffered damage to the goodwill associated with the Tacori Crescent Trade Dress.

46. Defendant's acts of trademark infringement have irreparably harmed and, if not enjoined, will continue to irreparably harm Tacori and its federally registered trademark.

47. Defendant's acts of trademark infringement have irreparably harmed and, if not enjoined, will continue to irreparably harm the general public who has an interest in being free from confusion, mistake, and deception.

48. By reason of Defendant's acts of trademark infringement, Tacori's remedy at law is not adequate to compensate it for the injuries inflicted by Defendant. Accordingly, Tacori is entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

49. By reason of Defendant's willful acts of trademark infringement, Tacori is entitled to damages, and that those damages be trebled under 15 U.S.C. § 1117.

50. This is an exceptional case making Tacori eligible for an award of attorneys' fees under 15 U.S.C. § 1117.

Third Cause of Action

(Trade Dress Infringement and False Designation of Origin)

Under 15 U.S.C. § 1125(a))

51. Tacori realleges and incorporates by reference each of the allegations contained in Paragraphs 1 through 50 of this Complaint as though fully set forth.

52. Tacori's jewelry incorporating the Tacori Reverse Crescent Trade Dress has a unique and distinctive design which designates a single source of origin.

53. Defendant's use in commerce of the Tacori Reverse Crescent Trade Dress is likely to cause confusion, or to cause mistake, or to deceive the relevant public that Defendant's goods or service are authorized, sponsored or approved by or are affiliated with Tacori.

1 54. The above-described acts of Defendant constitute trade dress
2 infringement of the Tacori Reverse Crescent Look and false designation of origin
3 in violation of 15 U.S.C. § 1125(a), entitling Tacori to relief.

4 55. Tacori is being damaged and is likely to be damaged in the future by
5 Defendant's infringement by reason of the likelihood that purchasers of
6 Defendant's goods will be confused or mistaken as to source, sponsorship or
7 affiliation of Defendant's jewelry.

8 56. Defendant has unfairly profited from the actions alleged herein and
9 will continue to unfairly profit and become unjustly enriched unless and until
10 such conduct is enjoined.

11 57. By reason of the above-described acts of Defendant, Tacori has
12 suffered and will continue to suffer damage to the goodwill associated with the
13 Tacori Reverse Crescent Trade Dress.

14 58. The above-described acts of Defendant have irreparably harmed and,
15 if not enjoined, will continue to irreparably harm Tacori and the Tacori Reverse
16 Crescent Trade Dress.

17 59. The above-described acts of Defendant have irreparable harmed and,
18 if not enjoined, will continue to irreparably harm the general public which has an
19 interest in being free from confusion, mistake, and deception.

20 60. By reason of the above-described acts of Defendant, Tacori's remedy
21 at law is not adequate to compensate it for the injuries inflicted. Accordingly,
22 Tacori is entitled to entry of injunctive relief pursuant to 15 U.S.C. § 1116.

23 61. Because the above-described acts of Defendant were willful, Tacori
24 is entitled to damages, and that those damages be trebled, under 15 U.S.C. §
25 1117.

26 62. This is an exceptional case making Tacori eligible for an award of
27 attorneys' fees under 15 U.S.C. § 1117.
28

Fourth Cause of Action

(Violation of California Unfair Competition Law)

63. Tacori realleges and incorporates by reference each of the allegations contained in Paragraphs 1 through 62 of this Complaint as though fully set forth.

64. Tacori is informed and believes, and on that basis alleges, that Defendant is in direct competition with Tacori.

65. Defendant has infringed Tacori's trade dress rights and sold infringing products in violation of Tacori's proprietary rights. Such acts constitute unfair trade practices and unfair competition under California Business and Professions Code §§ 17200, *et seq.*, and under the common law of the State of California.

66. Pursuant to California Business and Professions Code § 17203, Defendant is required to disgorge and restore to Tacori all profits and property acquired by means of Defendant's unfair competition with Tacori.

67. Due to the conduct of the Defendant, Tacori has suffered and will continue to suffer irreparable harm. It would be difficult to ascertain the amount of money damages that would afford Tacori adequate relief at law for Defendant's acts and continuing acts. Tacori's remedy at law is not adequate to compensate it for the injuries already inflicted and further threatened by Defendant. Accordingly, Tacori is entitled to temporary, preliminary and permanent injunctive relief pursuant to California Business and Professions Code § 17203.

68. Tacori is informed and believes and on that basis alleges that Defendant's conduct has been intentional and willful and in conscious disregard of Tacori's rights and, therefore, Tacori is entitled to exemplary or punitive damages under the common law of the State of California in an amount appropriate to punish Defendant and to make an example of Defendant to the community.

Prayer for Relief

Therefore, Tacori respectfully requests judgment as follows:

1. That the Court enter a judgment against Defendant that Defendant has:
 - (a) infringed the trade dress rights of Tacori in its “Tacori Reverse Crescent Trade Dress” in violation of 15 U.S.C. § 1125;
 - (b) infringed the rights of Tacori in its federally registered trademark in its “Tacori Crescent Trade Dress” in violation of 15 U.S.C. § 1114;
 - (c) infringed the rights of Tacori in Tacori’s federally registered copyrights under 17 U.S.C. § 501; and
 - (d) competed unfairly with Tacori at common-law and in violation of California Business and Professions Code § 17200.
2. That each of the above acts were willful.
3. That the Court issue a Temporary Restraining Order and Preliminary Injunction enjoining and restraining Defendant and its respective agents, servants, employees, successors and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendant, from:
 - (a) manufacturing, producing, selling, distributing, destroying, altering, or otherwise disposing of any jewelry that is in the possession of Defendant that is confusingly similar to the Tacori Crescent Trade Dress or the Tacori Reverse Crescent Trade Dress, or that is substantially similar to the Tacori Crescent Jewelry;
 - (b) destroying any documents, electronic files, wax models, molds, business records, or any other tangible object pertaining to the copying, reproduction, manufacture,

1 duplication, distribution, or advertisement of any such jewelry;
2 and;

3 (c) engaging in any other activity constituting an infringement of
4 Tacori's trade dress rights in the "Tacori Crescent Trade
5 Dress," and the "Tacori Reverse Crescent Trade Dress," or
6 Tacori's copyrights in the Tacori Crescent Jewelry.

7 4. That Tacori be awarded damages for Defendant's trademark and
8 trade dress infringement, and unfair competition.

9 5. That Tacori be awarded Defendant's profits resulting from its
10 infringement of Tacori's trademark and trade dress rights.

11 6. That Defendant be ordered to account for and disgorge to Tacori all
12 amounts by which Defendant has been unjustly enriched by reason of the
13 unlawful acts complained of.

14 7. That damages resulting from Defendant's willful infringement be
15 trebled in accordance with the provisions of 15 U.S.C. § 1117.

16 8. That Tacori be awarded damages for Defendant's copyright
17 infringement either: (i) actual damages in an amount to be determined at trial,
18 together with Defendant's profits derived from its unlawful infringement of
19 Tacori's copyrights; or (ii) statutory damages for each act of infringement in an
20 amount provided by law, as set forth in 17 U.S.C. § 504, at Tacori's election
21 before the entry of final judgment, together with prejudgment and post-judgment
22 interest.

23 9. That Tacori be awarded all profits and property acquired by means
24 of Defendant's unfair competition with Tacori.

25 10. That Tacori be awarded exemplary or punitive damages in an
26 amount appropriate to punish Defendant and to make an example of Defendant to
27 the community.

1 11. That the Court issue a Permanent Injunction enjoining and
2 restraining Defendant and its respective agents, servants, employees, successors
3 and assigns, and all other persons acting in concert with or in conspiracy with or
4 affiliated with Defendant, from copying, reproducing, manufacturing, duplicating,
5 disseminating, distributing, or using Tacori's trade dress rights in the "Tacori
6 Crescent Trade Dress," the "Tacori Reverse Crescent Trade Dress," or infringing
7 copies of the Tacori Crescent Jewelry.

8 12. That the Court issue an Order at the conclusion of the present matter
9 that the jewelry infringing Tacori's trade dress and all infringing copies of the
10 Tacori Crescent Jewelry, and all molds by which such infringing jewelry was
11 produced, be seized, impounded and destroyed.

12 13. That the Court award Tacori its reasonable attorneys' fees pursuant
13 to 17 U.S.C. § 505, 15 U.S.C. § 1117, and any other applicable provision of law.

14 14. That the Court award Tacori its costs of suit incurred herein.

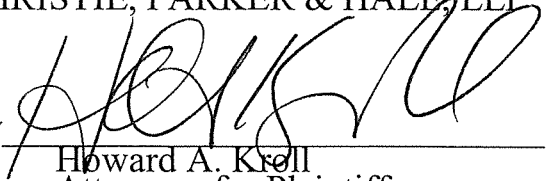
15 15. That Tacori be awarded such other relief as may be appropriate.

16
17 DATED: February 22, 2011

Respectfully submitted,

18 CHRISTIE, PARKER & HALE, LLP

19
20 By



Howard A. Kroll
Attorneys for Plaintiff,
TACORI ENTERPRISES

DEMAND FOR TRIAL BY JURY

Plaintiff Tacori Enterprises hereby demands a trial by jury to decide all issues so triable in this case.

DATED: February 22, 2011

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By


Howard A. Kroll
Attorneys for Plaintiff,
TACORI ENTERPRISES

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Christina A. Snyder and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

CV11- 1565 CAS (AGR~~x~~)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Tacori Enterprises

PLAINTIFF(S)

v.

Scott Kay, Inc.

DEFENDANT(S).

CASE NUMBER

CV11 01565 CAS(AGRx)**SUMMONS**TO: DEFENDANT(S): Scott Kay, Inc.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Howard A. Kroll, whose address is Christie, Parker & Hale, 350 W. Colorado Blvd, Ste 500, Pasadena, CA 91105. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: FEB 22 2011By: CHRISTOPHER POWERS
Deputy Clerk

(Seal of the Court)

1181



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Tacori Enterprises	DEFENDANTS Scott Kay, Inc.
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(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Howard A. Kroll, CA Bar No. 100981 howard.kroll@cph.com Christie, Parker & Hale, LLP 350 W. Colorado Blvd., Suite 500 Pasadena, CA 91105 Phone: 626-795-9900; Fax: 626-577-8800	Attorneys (If Known)
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BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> </tr> <tr> <td>Citizen of This State <input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State <input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country <input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation <input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State <input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State <input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6	<input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
Citizen of This State <input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4	<input type="checkbox"/> 4														
Citizen of Another State <input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify):
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No ☒ **MONEY DEMANDED IN COMPLAINT:** \$ according to proof

I. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

copyright infringement and trade dress infringement pursuant to 15 U.S.C. Section 121, 17 U.S.C. Section 501 and 28 U.S.C. Sections 1331 and 1338(a).

II. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: CV11 01565

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

71 (05/08) CIVIL COVER SHEET

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

/III(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

/III(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes

If yes, list case number(s): See Attachment A.

Civil cases are deemed related if a previously filed case and the present case:

- Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☒ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. VENUE: (When completing the following information, use an additional sheet if necessary.)

a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	New Jersey

c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

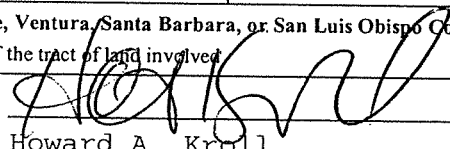
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

SIGNATURE OF ATTORNEY (OR PRO PER):


Howard A. Kroll

Date February 18, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

Attachment to Civil Cover Sheet

Related Case Numbers

- CV-04-5382 TJH (VBKx)
- CV-04-1541 DSF (VBKx)
- CV-04-1432 DSF (VBKx)
- CV-05-6503 GAF (RCx)
- CV-06-0762 GAF (RCx)
- CV-06-5170 GAF (RCx)
- CV-06-0765 GAF (RCx)
- CV-07-3939 GAF (RCx)
- CV 08-0552 DSF (VBKx)
- CV 09-5057 DSF (VBKx)
- CV 10 5420 DSF (MANx)
- SA CV 10-1195 DSF (VBKx)